

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN ASSEMBLY MAY 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 520**

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**Introduced by Assembly Member Ammiano**

February 15, 2011

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~~An act to amend Section 1170 of the Penal Code, relating to sentencing. An act to amend Section 13353.3 of the Vehicle Code, relating to vehicles.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 520, as amended, Ammiano. ~~Sentencing. Vehicles: reckless driving: suspension of licenses.~~

*Existing law requires a person's driving privilege to be suspended upon conviction of specified driving-under-the-influence (DUI) offenses for one year. Existing law terminates the licensing suspension if certain conditions are met, including if the person is eligible to apply for a restricted license. Under existing law, a person who drives a vehicle upon a highway in willful or wanton disregard for the safety of a person or property is guilty of reckless driving. Existing law provides that, when a person is charged with, and pleads guilty or nolo contendere to, reckless driving in satisfaction of, or as a substitute for, an original charge for a DUI, and the court accepts the plea of guilty or nolo contendere, the conviction is a prior offense for purposes of specified laws relating to punishments imposed for DUI convictions.*

*This bill would terminate a driver's license suspension, and make the person eligible for a restricted driver's license, for a person convicted of reckless driving in satisfaction of, or substitute for, an original charge*

*of driving-under-the-influence, if certain conditions are met, including that the person complete a 90-day suspension period and install an ignition interlock device. The bill would require the department to advise the person of the above conditions. The bill would require that the restricted driver's license privilege be subject to certain restrictions, including that the privilege be limited to the hours necessary for driving from the person's place of employment.*

~~Existing law, operative until January 1, 2012, provides that when a judgment of imprisonment is to be imposed and the statute specifies 3 possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. Existing law, operative January 1, 2012, provides that the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime.~~

~~This bill would extend the operative date of the current provision allowing the choice of the appropriate term to rest within the sound discretion of the court until January 1, 2013.~~

~~This bill would incorporate additional changes in Section 1170 of the Penal Code, proposed by A.B. 109, operative only if certain conditions are met.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 13353.3 of the Vehicle Code is amended  
2     to read:  
3     13353.3. (a) An order of suspension of a person's privilege to  
4     operate a motor vehicle pursuant to Section 13353.2 shall become  
5     effective 30 days after the person is served with the notice pursuant  
6     to Section 13382 or 13388, or subdivision (b) of Section 13353.2.  
7     (b) The period of suspension of a person's privilege to operate  
8     a motor vehicle under Section 13353.2 is as follows:  
9     (1) If the person has not been convicted of a separate violation  
10    of Section 23103, as specified in Section 23103.5, or Section  
11    23140, 23152, or 23153, or Section 191.5 or subdivision (a) of  
12    Section 192.5 of the Penal Code, the person has not been  
13    administratively determined to have refused chemical testing  
14    pursuant to Section 13353 or 13353.1, or the person has not been  
15    administratively determined to have been driving with an excessive  
16    concentration of alcohol pursuant to Section 13353.2 on a separate

1 occasion, which offense or occurrence occurred within 10 years  
2 of the occasion in question, the person's privilege to operate a  
3 motor vehicle shall be suspended for four months.

4 (2) (A) If the person has been convicted of one or more separate  
5 violations of Section 23103, as specified in Section 23103.5, or  
6 Section 23140, 23152, or 23153, or Section 191.5 or subdivision  
7 (a) of Section 192.5 of the Penal Code, the person has been  
8 administratively determined to have refused chemical testing  
9 pursuant to Section 13353 or 13353.1, or the person has been  
10 administratively determined to have been driving with an excessive  
11 concentration of alcohol pursuant to Section 13353.2 on a separate  
12 occasion, which offense or occasion occurred within 10 years of  
13 the occasion in question, the person's privilege to operate a motor  
14 vehicle shall be suspended for one year, except as provided in  
15 ~~subparagraph~~ *subparagraphs (B) and (C).*

16 (B) The one-year suspension pursuant to subparagraph (A) shall  
17 terminate if the person has been convicted of a violation arising  
18 out of the same occurrence and all of the following conditions are  
19 met:

20 (i) The person is eligible for a restricted driver's license pursuant  
21 to Section 13352.

22 (ii) The person installs an ignition interlock device as required  
23 in Section 13352 for that restricted driver's license.

24 (iii) The person complies with all other applicable conditions  
25 of Section 13352 for a restricted driver's license.

26 (C) *The one-year suspension pursuant to subparagraph (A)*  
27 *shall terminate after completion of a 90-day suspension period,*  
28 *and the person shall be eligible for a restricted license if the person*  
29 *has been convicted of a violation of Section 23103, as specified in*  
30 *Section 23103.5, arising out of the same occurrence and all the*  
31 *following conditions are met:*

32 (i) *The person satisfactorily provides, subsequent to the*  
33 *underlying violation date, proof satisfactory to the department of*  
34 *enrollment in a nine-month driving-under-the influence program*  
35 *licensed pursuant to Chapter 9 (commencing with Section 11836)*  
36 *of Part 2 of Division 10.5 of the Health and Safety Code that*  
37 *consists of at least 60 hours of program activities, including*  
38 *education, group counseling, and individual interview sessions.*

1     (ii) The person agrees, as a condition of the restriction, to  
2     continue satisfactory participation in the program described in  
3     clause (i).

4     (iii) The person installs an ignition interlock device and submits  
5     the “Verification of Installation” form described in paragraph (2)  
6     of subdivision (h) of Section 13386.

7     (iv) The person agrees to maintain the ignition interlock device  
8     as required pursuant to subdivision (g) of Section 23575.

9     (v) The person provides proof of financial responsibility, as  
10    defined in Section 16430.

11    (vi) The person pays all license fees and any restriction fee  
12    required by the department.

13    (vii) The person pays to the department a fee sufficient to cover  
14    the costs of administration of this paragraph, as determined by  
15    the department.

16    (D) The department shall advise those persons that are eligible  
17    under subparagraph (C) that after completion of 90 days of the  
18    suspension period, the person may apply to the department for a  
19    restricted driver’s license, subject to the conditions set forth in  
20    subparagraph (C).

21    (E) The restricted driving privilege shall become effective when  
22    the department receives all of the documents and fees required  
23    under subparagraph (C) and remain in effect for one year. The  
24    restricted driving privilege shall be subject to the following  
25    conditions:

26    (i) The restricted driving privilege shall be limited to the hours  
27    necessary for driving to and from the person’s place of  
28    employment, driving during the course of employment, and driving  
29    to and from activities required in the driving-under-the-influence  
30    program.

31    (ii) If the driving privilege is restricted under this section, proof  
32    of financial responsibility, as described in Section 16430, shall be  
33    maintained for three years. If the person does not maintain that  
34    proof of financial responsibility at any time during the restriction,  
35    the driving privilege shall be suspended until the proof required  
36    pursuant to Section 16484 is received by the department.

37    (iii) For the purposes of this section, enrollment, participation,  
38    and completion of an approved program shall be subsequent to  
39    the date of the current violation. Credit may not be given to a

1 *program activity completed prior to the date of the current*  
2 *violation.*

3 *(iv) The department shall terminate the restriction issued*  
4 *pursuant to this section and shall suspend the privilege to operate*  
5 *a motor vehicle pursuant to subparagraph (A) immediately upon*  
6 *receipt of notification from the driving-under-the-influence*  
7 *program that the person has failed to comply with the program*  
8 *requirements. The privilege shall remain suspended until the final*  
9 *day of the original suspension imposed pursuant to subparagraph*  
10 *(A).*

11 *(v) The holder of a commercial driver's license who was*  
12 *operating a commercial motor vehicle, as defined in Section 15210,*  
13 *at the time of a violation that resulted in a suspension or revocation*  
14 *of the person's noncommercial driving privilege is not eligible for*  
15 *the restricted driver's license authorized pursuant to this section.*

16 *(vi) If, upon conviction, the court makes the determination that*  
17 *a person convicted of a violation of Section 23103, as specified in*  
18 *Section 23103.5, would present a traffic safety or public safety*  
19 *risk if authorized to operate a motor vehicle during the period of*  
20 *suspension imposed pursuant to subparagraph (A), the court may*  
21 *disallow the issuance of a restricted license and the department*  
22 *shall not then issue a restricted license pursuant to this section.*

23 *(3) Notwithstanding any other ~~provision of law~~, if a person has*  
24 *been administratively determined to have been driving in violation*  
25 *of Section 23136 or to have refused chemical testing pursuant to*  
26 *Section 13353.1, the period of suspension shall not be for less than*  
27 *one year.*

28 *(c) If a person's privilege to operate a motor vehicle is*  
29 *suspended pursuant to Section 13353.2 and the person is convicted*  
30 *of a violation of Section 23152 or 23153, including, but not limited*  
31 *to, a violation described in Section 23620, arising out of the same*  
32 *occurrence, both the suspension under Section 13353.2 and the*  
33 *suspension or revocation under Section 13352 shall be imposed,*  
34 *except that the periods of suspension or revocation shall run*  
35 *concurrently, and the total period of suspension or revocation shall*  
36 *not exceed the longer of the two suspension or revocation periods.*

37 *(d) For the purposes of this section, a conviction of an offense*  
38 *in any state, territory, or possession of the United States, the*  
39 *District of Columbia, the Commonwealth of Puerto Rico, or the*  
40 *Dominion of Canada that, if committed in this state, would be a*

1 violation of Section 23103, as specified in Section 23103.5, or  
2 Section 23140, 23152, or 23153, or Section 191.5 or subdivision  
3 (a) of Section 192.5 of the Penal Code, is a conviction of that  
4 particular section of the Vehicle Code or Penal Code.

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7 **All matter omitted in this version of the bill**  
8 **appears in the bill as amended in the**  
9 **Assembly, May 31, 2011. (JR11)**  
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